IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE SIXTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

-

WRIT PETITION NO : 15897 of 2003

Between:

V.Sadhasiva Reddy s/o Raja Tirumala Rao
R/o Pudur Village., Gadwal Mandal., Mahaboobnagar District.

..... PETITIONER

AND

1 The Assistant Commissioner of Endowments Mahaboobnagar.
2 The Executive Officer of Sri Venkateswar Swamy Temple., Maldakal (V) &

(M) appointed as Executive Officer to Sri Santana Venugopala Swamy

Temple., Gadwal (V) and Mandal., Mahaboobnagar District.
3 The Commissioner of Endowments., Tilak road., Boggulakunta.,
Abids., Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ, order or direction, more particularly a Writ in the nature of Writ of Certiorari, calling for the records relating to the impugned proceedings issued by the Assistant Commissioner of Endowments, Mahaboobnagar passed in Rc.No.C/579/2002-1, dated 15-07-2003 appointing the second respondent as Executive Officer to Sri Santana Venugopala Swamy Temple, Gadwal.

Counsel for the Petitioner: MR.M.VIDYASAGAR

Counsel for the Respondent Nos.1 and 3: G.P. FOR ENDOWMENTS

Counsel for the Respondent No.2: MR.K.RAVI

The Court made the following:

ORDER:

Heard both sides and at their request, the writ petition is being taken up for disposal.

The petitioner claims to be a founder trustee files this writ petition, *inter alia*, seeking to assail the impugned proceedings dated 15.07.2003 passed by the first respondent herein appointing an Executive Officer to the institution known as “Sri Sanatana Venugopala Swamy Temple” situated at Gadwal in Mahaboobnagar District.

The case of the petitioner in brief is that no notice has been given and nor there is any warrant to appoint the Executive Officer. Further, the petitioner has also challenged the very power of the first respondent to invoke Section 29 of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987 (for short ‘the Act’) for appointing any such Executive Officer either regular or in-charge. It is also submitted that the petitioner has filed an application on 05.07.2003 before the first respondent to declare him as a founder trustee and it is still pending without being disposed of and therefore the question of appointing any Executive Officer does not arise. Hence, this writ petition.

A detailed counter affidavit has been filed stating that the petitioner has been unsuccessful earlier under Section 77 of the earlier Act and

without he being declared as a founder trustee under the present Act, he has no locus to challenge the impugned proceedings. Further, it is also pointed out that having regard to the fact that the temple falls under category of Section 6(c) (ii) of the Act, the first respondent has ample powers to appoint an in-charge Executive Officer though not regular.

Having considered the submissions made and also on perusal of the material, it is seen that the petitioner's application to declare him as a founder trustee filed as long back as on 05.07.2003, is still pending consideration before the first respondent. There is no explanation as to why the said application has not yet been disposed of. Further, the question of applying the provisions of Section 29 of the Act appointing the Executive Officer does not apply to the first respondent herein; it is only the Commissioner of Endowments who has been empowered to appoint an Executive Officer in respect of any temple either regular or in-charge. Therefore, the first respondent could not have invoked the said provision for appointing the in-charge Executive Officer.

In view of the same, I do not find any justification in the impugned proceedings. Accordingly, the impugned proceedings dated 15.07.2003 are set aside and the first respondent is directed to dispose of the application filed by the petitioner on 05.7.2003 within a period of three months from the date of receipt of a copy of this order.

Accordingly, the writ petition is allowed. No costs.

06.12.2004

VGB

That Rule nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this Monday, The Sixth Day of December, Two Thousand and Four.

To

1 The Assistant Commissioner of Endowments Mahaboobnagar.
2 The Executive Officer of Sri Venkateswar Swamy Temple., Maldakal (V) &

(M) appointed as Executive Officer to Sri Santana Venugopala Swamy

Temple., Gadwal (V) and Mandal., Mahaboobnagar District.
3 The Commissioner of Endowments., Tilak road., Boggulakunta.,
Abids., Hyderabad.

4 2CCs to the Government Pleader for Endowments, High Court

Buildings, Hyderabad (OUT)

5 2CD copies